

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Joseph offered the following:

**Amendment (with title amendment)**

Remove lines 448-601 and insert:

Section 3 Effective March 1, 2023, subsection (7) is added to section 624.3161, Florida Statutes, to read:

624.3161 Market conduct examinations.—

(7) Notwithstanding subsection (1), any authorized insurer transacting property insurance business in this state shall be subject to an additional market conduct examination after a hurricane if the insurer:

(a) Is among the top 20 percent of insurers based upon a calculation of the ratio of hurricane-related property insurance

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14 claims filed to the number of property insurance policies in  
15 force;

16 (b) Is among the top 20 percent of insurers based upon a  
17 calculation of the ratio of consumer complaints made to the  
18 department to hurricane-related claims;

19 (c) Has made significant payments to its managing general  
20 agent since the hurricane; or

21 (d) Is identified by the office as necessitating a market  
22 conduct exam for any other reason.

23  
24 All relevant criteria under this section and s. 624.316 shall be  
25 applied to the market conduct examination under this subsection.  
26 Such an examination must be initiated within 18 months after the  
27 landfall of a hurricane that results in an executive order or a  
28 state of emergency issued by the Governor. An examination of an  
29 insurer under this subsection must also include an examination  
30 of its managing general agent as if it were the insurer.

31 Section 4. Paragraph (c) of subsection (2) of section  
32 624.418, Florida Statutes, is amended to read:

33 624.418 Suspension, revocation of certificate of authority  
34 for violations and special grounds.—

35 (2) The office may, in its discretion, suspend or revoke  
36 the certificate of authority of an insurer if it finds that the  
37 insurer:

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38 (c) Has for any line, class, or combination thereof, with  
39 such frequency as to indicate its general business practice in  
40 this state, without just cause:

41 1. Refused to pay proper claims arising under its  
42 policies, whether any such claim is in favor of an insured or is  
43 in favor of a third person with respect to the liability of an  
44 insured to such third person, or without just cause compels such  
45 insureds or claimants to accept less than the amount due them or  
46 to employ attorneys or to bring suit against the insurer or such  
47 an insured to secure full payment or settlement of such claims;  
48 or

49 2. Compelled insureds to participate in appraisal under a  
50 property insurance policy in order to secure full payment or  
51 settlement of such claims.

52 Section 5. Paragraph (a) of subsection (10) of section  
53 624.424, Florida Statutes, is amended to read:

54 624.424 Annual statement and other information.—

55 (10) (a) Each insurer or insurer group doing business in  
56 this state shall file on a quarterly basis in conjunction with  
57 financial reports required by paragraph (1) (a) a supplemental  
58 report on an individual and group basis on a form prescribed by  
59 the commission with information on personal lines and commercial  
60 lines residential property insurance policies in this state. The  
61 supplemental report shall include separate information for  
62 personal lines property policies and for commercial lines

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63 property policies and totals for each item specified, including  
64 premiums written for each of the property lines of business as  
65 described in ss. 215.555(2)(c) and 627.351(6)(a). The report  
66 shall include the following information for each county on a  
67 monthly basis:

- 68 1. Total number of policies in force at the end of each  
69 month.
- 70 2. Total number of policies canceled.
- 71 3. Total number of policies nonrenewed.
- 72 4. Number of policies canceled due to hurricane risk.
- 73 5. Number of policies nonrenewed due to hurricane risk.
- 74 6. Number of new policies written.
- 75 7. Total dollar value of structure exposure under policies  
76 that include wind coverage.
- 77 8. Number of policies that exclude wind coverage.
- 78 9. Number of claims open each month.
- 79 10. Number of claims closed each month.
- 80 11. Number of claims pending each month.
- 81 12. Number of claims in which either the insurer or  
82 insured invoked any form of alternative dispute resolution, and  
83 specifying which form of alternative dispute resolution was  
84 used.

85 Section 6. Subsections (1) and (3) of section 626.9373,  
86 Florida Statutes, are amended to read:

87 626.9373 Attorney fees.—

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88 (1) Except as provided in subsection (3), upon the  
89 rendition of a judgment or decree by any court of this state  
90 against a surplus lines insurer in favor of any named or omnibus  
91 insured or the named beneficiary under a policy or contract  
92 executed by the insurer on or after the effective date of this  
93 act, the trial court or, if the insured or beneficiary prevails  
94 on appeal, the appellate court, shall adjudge or decree against  
95 the insurer in favor of the insured or beneficiary a reasonable  
96 sum as fees or compensation for the insured's or beneficiary's  
97 attorney prosecuting the lawsuit for which recovery is awarded.  
98 ~~In a suit arising under a residential or commercial property~~  
99 ~~insurance policy, the amount of reasonable attorney fees shall~~  
100 ~~be awarded only as provided in s. 57.105 or s. 627.70152, as~~  
101 ~~applicable.~~

102 (3) In a suit arising under a residential or commercial  
103 property insurance policy, there is no ~~the~~ right to attorney  
104 fees under this section ~~may not be transferred to, assigned to,~~  
105 ~~or acquired in any other manner by anyone other than a named or~~  
106 ~~omnibus insured or a named beneficiary.~~

107 Section 7. Paragraph (i) of subsection (1) of section  
108 626.9541, Florida Statutes, is amended to read:

109 626.9541 Unfair methods of competition and unfair or  
110 deceptive acts or practices defined.-

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111 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
112 ACTS.—The following are defined as unfair methods of competition  
113 and unfair or deceptive acts or practices:

114 (i) *Unfair claim settlement practices.*—

115 1. Attempting to settle claims on the basis of an  
116 application, when serving as a binder or intended to become a  
117 part of the policy, or any other material document which was  
118 altered without notice to, or knowledge or consent of, the  
119 insured;

120 2. A material misrepresentation made to an insured or any  
121 other person having an interest in the proceeds payable under  
122 such contract or policy, for the purpose and with the intent of  
123 effecting settlement of such claims, loss, or damage under such  
124 contract or policy on less favorable terms than those provided  
125 in, and contemplated by, such contract or policy;

126 3. Committing or performing with such frequency as to  
127 indicate a general business practice any of the following:

128 a. Failing to adopt and implement standards for the proper  
129 investigation of claims;

130 b. Misrepresenting pertinent facts or insurance policy  
131 provisions relating to coverages at issue;

132 c. Failing to acknowledge and act promptly upon  
133 communications with respect to claims;

134 d. Denying claims without conducting reasonable  
135 investigations based upon available information;

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136 e. Failing to affirm or deny full or partial coverage of  
137 claims, and, as to partial coverage, the dollar amount or extent  
138 of coverage, or failing to provide a written statement that the  
139 claim is being investigated, upon the written request of the  
140 insured within 30 days after proof-of-loss statements have been  
141 completed;

142 f. Failing to promptly provide a reasonable explanation in  
143 writing to the insured of the basis in the insurance policy, in  
144 relation to the facts or applicable law, for denial of a claim  
145 or for the offer of a compromise settlement;

146 g. Failing to promptly notify the insured of any  
147 additional information necessary for the processing of a claim;

148 h. Failing to clearly explain the nature of the requested  
149 information and the reasons why such information is necessary;

150 ~~or~~

151 i. Failing to pay personal injury protection insurance  
152 claims within the time periods required by s. 627.736(4)(b). The  
153 office may order the insurer to pay restitution to a  
154 policyholder, medical provider, or other claimant, including  
155 interest at a rate consistent with the amount set forth in s.  
156 55.03(1), for the time period within which an insurer fails to  
157 pay claims as required by law. Restitution is in addition to any  
158 other penalties allowed by law, including, but not limited to,  
159 the suspension of the insurer's certificate of authority; ~~or~~

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160 j. Altering a field adjuster's initial estimate, report,  
161 photographs, or written comments regarding photographs or  
162 observations of an insured risk without express written approval  
163 of the adjuster obtained within 5 days after the alteration  
164 which clearly explains in detail the nature and extent of the  
165 changes;

166 k. Failing to provide an insured with a complete,  
167 unredacted, and unaltered copy of a field adjuster's initial  
168 report, estimate, and photographs within 10 business days after  
169 receipt of such materials; or

170 l. Failing to provide an insured with a complete,  
171 unredacted, and unaltered copy of any report or estimate  
172 obtained from an engineer, an environmental consultant, a  
173 contractor, or another specialist retained by the insurer to  
174 investigate the claim within 10 business days after receipt of  
175 such report or estimate; or

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178 **T I T L E A M E N D M E N T**

179 Remove lines 32-45 and insert:  
180 insurers are subject to an additional market conduct  
181 examination by the Office of Insurance Regulation  
182 after a hurricane under certain circumstances;  
183 providing requirements for such examination; amending  
184 s. 624.418, F.S.; adding specified grounds on which

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185 | the office may suspend or revoke a property insurer's  
186 | certificate of authority; amending s. 624.424, F.S.;  
187 | adding information required to be reported by property  
188 | insurers in their quarterly supplemental reports;  
189 | amending s. 626.9373, F.S.; deleting a right to  
190 | attorney fees for judgments or decrees against surplus  
191 | lines insurers in suits arising under residential or  
192 | commercial property insurance policies; amending s.  
193 | 626.9541, F.S.; specifying additional acts and  
194 | practices that constitute unfair claim settlement  
195 | practices by insurers;

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